

REMARKS

Claims 1-6, 13-25, and 29-31 remain for reconsideration. Claims 7-12, 26-28, and 32-34 have been cancelled without prejudice.

The Examiner has noted, without specific objection, that the trademark “Kovar” appears in the specification and stated that it should be capitalized and accompanied by generic terminology. Applicant’s believe they have done this as it is capitalized at every occurrence and paragraph [0030] of the specification as filed states “...*A suitable material may be for example, stainless steel or an alloy such as Kovar® which is a registered trademark of Carpenter Technology Corporation and may comprise a combination of Co, Mn, Ni, Si, and Fe...*”.

Similarly, claims 3 and 16 have been rejected under 35 U.S.C. 112, second paragraph, for containing the trademark Kovar. MPEP 2173.05(u) states that “*The presence of a trademark or trade name in a claim is not, per se, improper under 35 U.S.C. 112, second paragraph, but the claim should be carefully analyzed to determine how the mark or name is used in the claim.*” It is respectfully submitted that using a trademark is not indefinite in this case as

KOVAR is well known, particularly in this art. A quick search of the PTO database reveals that, as of the present date, the trademark KOVAR appears in claims of 276 issued US Patents. Further, eight of these patents list Examiner Akm E. Ullah, the Examiner of the present application, as either the primary or assistant examiner. It is urged that the trademark use in this case has precedence, it is not indefinite, and this rejection should be withdrawn.

All remaining claims stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub No. 2003/0223709 to Lake in view of U.S. Pub No. 2003/0081914 to Steinberg.

This rejection is respectfully traversed as it relies on U.S. Pub No. 2003/0223709 to Lake which qualifies as prior art only under 35 U.S.C. 102(e) and is assigned along with the present application to Intel Corporation. This reference is herein disqualified as prior art under § 103(c).

Statement of Common Ownership

The present Application, Serial No. 10/663,242 and U.S. Published Application No. 2003/0223709 A1 to Lake et al. were, at the time the invention of Application Serial No. 10/663,242 was made, owned by Intel Corporation.

As set forth in 35 U.S.C. § 103(c)(1), this commonly-owned subject

matter of Lake et al. "shall not preclude patentability" of the currently claimed invention. Thus, the § 103(a) rejections of all pending claims should be withdrawn.

In view of the foregoing, it requested that the application be reconsidered, that claims 1-6, 13-25, and 29-31 be allowed and that the application be passed to issue. Please charge any shortages and credit any overcharges to Intel's Deposit Account number 50-0221.

Respectfully submitted,

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